

1 **IN THE UNITED STATES DISTRICT COURT**
2 **FOR THE DISTRICT OF PUERTO RICO**

3
4 **RAFAEL ORTIZ BONILLA, et al.,**
5 **Plaintiffs,**
6 **v.**
7 **FEDERACION DE AJEDREZ DE**
8 **PUERTO RICO, INC.,**
9 **Defendant.**

CIVIL NOS.
LEAD CASE: 10-2276 (GAG)
MEMBER CASE: 11-1208 (GAG)

10
11 **OPINION AND ORDER**

12 Plaintiffs Rafael Ortiz Bonilla, Luis Jose Torres Bauza, Fernando Martinez Buitrago, Juan
13 Martin Santa Torres, Juan Javier Hernandez Lebron, Julio Guzman Freire, and Cristobal Vega
14 Adorno (collectively “Plaintiffs”) commenced this action seeking injunctive relief for alleged
15 violations of their state and federal constitutional rights by the Federacion de Ajedrez de Puerto Rico
16 (“FAPR”) as well as a declaration that the actions taken by the Board of Directors of the FAPR were
17 *ultra vires*, and therefore, any resolutions or decisions made by the board must be held null and void.

18 This matter is currently before the court on FAPR’s motion for summary judgment (Docket
19 No. 58). This motion was timely opposed by Plaintiffs (Docket No. 79). A corresponding reply was
20 filed by FAPR (Docket No. 96). After reviewing these submissions and the pertinent law, the court
21 **GRANTS** FAPR’s motion for summary judgment (Docket No. 58).

22 **I. Standard of Review**

23 Summary judgment is appropriate when “the pleadings, depositions, answers to
24 interrogatories, and admissions on file, together with the affidavits, if any, show that there is no
25 genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter
26 of law.” Fed.R.Civ.P. 56(c); Celotex Corp. v. Catrett, 477 U.S. 317, 322 (1986). “An issue is
27 genuine if ‘it may reasonably be resolved in favor of either party’ at trial, and material if it
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1 ‘possess[es] the capacity to sway the outcome of the litigation under the applicable law.’” Iverson
2 v. City of Boston, 452 F.3d 94, 98 (1st Cir. 2006) (alteration in original) (citations omitted). The
3 moving party bears the initial burden of demonstrating the lack of evidence to support the non-
4 moving party’s case. Celotex, 477 U.S. at 325. “The movant must aver an absence of evidence to
5 support the nonmoving party’s case. The burden then shifts to the nonmovant to establish the
6 existence of at least one fact issue which is both genuine and material.” Maldonado-Denis v.
7 Castillo-Rodriguez, 23 F.3d 576, 581 (1st Cir. 1994). The nonmoving party must then “set forth
8 specific facts showing that there is a genuine issue for trial.” Fed. R. Civ. P. 56(e). If the court finds
9 that some genuine factual issue remains, the resolution of which could affect the outcome of the
10 case, then the court must deny summary judgment. See Anderson v. Liberty Lobby, Inc., 477 U.S.
11 242, 248 (1986).

12 When considering a motion for summary judgment, the court must view the evidence in the
13 light most favorable to the non-moving party and give that party the benefit of any and all reasonable
14 inferences. Id. at 255. Moreover, at the summary judgment stage, the court does not make
15 credibility determinations or weigh the evidence. Id. Summary judgment may be appropriate,
16 however, if the non-moving party’s case rests merely upon “conclusory allegations, improbable
17 inferences, and unsupported speculation.” Forestier Fradera v. Municipality of Mayaguez, 440 F.3d
18 17, 21 (1st Cir. 2006) (quoting Benoit v. Technical Mfg. Corp., 331 F.3d 166, 173 (1st Cir. 2003)).

II. Factual & Procedural Background

20 FAPR is a private non-profit corporation organized under the laws of the Commonwealth
21 of Puerto Rico with its headquarters in the municipality of Bayamon. FAPR is a member of the
22 Federation Internationale des Echecs (“FIDE”) and participates in international chess tournaments.
23 Pursuant to the Joint Resolution R.C. del S. 2390 of the Legislative Assembly of the Commonwealth
24 of Puerto Rico, dated August 16, 2003, between the years 2004 and 2014, the FAPR receives
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1 \$200,000 per year from the Commonwealth to be used in carrying out FAPR's goals.¹

2 In 2008, Vance Berrios ("Berrios") was appointed as the Administrator of FAPR. Berrios
3 continues to hold this position at the current time. Omar Aneses Bocanegra ("President Aneses")
4 served as President of FAPR from January 31, 2009 until February 21, 2011, and now serves as an
5 elected delegate of the Board of Directors.

6 On June 21, 2010, pursuant to the FAPR Constitution, various members of the FAPR,
7 including some of the named plaintiffs, requested the holding of an extraordinary assembly to be
8 held on Saturday June 26, 2010 at the FAPR offices in Bayamon for the purpose of considering two
9 topics:

- 10 1. Considering whether by majority vote of those present at the meeting a
11 mandate be approved for the president of the FAPR and thereby granting a
12 vote and support for the candidacy for president of the International Chess
13 Federation (FIDE) of Grand Master Anatoly Yevgenyevic Karpov. A
written, official public endorsement shall be issued 2 hours after said meeting
is adjourned.
- 14 2. Certifying Mr. Rafael Ortiz-Bonilla, founder of La Casa Del Ajedrez in
15 Caguas, as a candidate on the ballot for Secretary General for the American
16 Continent of the FIDE, at the request of GM Anatoly Karpov. A written,
official public endorsement shall be issued 2 hours after said meeting is
adjourned.

17 (See Docket No. 75-3 at 1.) Berrios received this communication on June 23, 2010. On that same
18 date, Berrios sent an email to all members of FAPR's Board of Directors notifying them of the
19 request for the holding of an extraordinary assembly on June 26, 2010. On June 25, 2010, Berrios
20 sent an email to FAPR members using the group email address ajedrezpr@yahoo.com. The email
21 summoned the members to an extraordinary assembly to be held on July 3, 2010, which was within
22 10 days of the request made by the members.

23
24 ¹ Joint Resolution 2390 specifically earmarks the funds "... for use and disposition by the
25 Puerto Rico Chess Federation and by the Executive Committee for the Master Massive Plan for the
26 Teaching of Chess in the Schools, so that they can execute an intense program of organization,
27 promotion, and development of chess in all of Puerto Rico, that the Federation trains, practices and
present delegations from Puerto Rico in international events and will be able to take care of the
administrative, operating and maintenance expenses of the Federation and the committee."

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1 On August 25, 2010, various members of the FAPR, including the named plaintiffs,
2 requested that the FAPR hold another extraordinary assembly within forty eight hours.² On
3 September 9, 2010, Berrios sent an email to FAPR members that an extraordinary assembly was to
4 be held on October 21, 2010 in the municipality of Aguadilla. On October 26, 2010, an email was
5 sent to FAPR members. The notice contained the results of the October 21, 2010 extraordinary
6 assembly.

7 On November 8, 2010, various members of the FAPR requested that an extraordinary
8 assembly be held on November 20, 2010 in Aguadilla. Berrios sent an email communication to the
9 group ajedrezpr@yahoo.com to summon the FAPR members to an extraordinary assembly on
10 November 20, 2010. This email contained the new text of the FAPR Constitution as it would appear
11 if the proposed amendments were adopted at the assembly. In order to participate in this assembly
12 members of the FAPR were required to be “active”. According to President Anases, active members
13 of the FAPR were members who were up to date in the payment of their membership dues and who
14 had participated in at least one chess tournament sponsored by the FAPR during the immediately
15 preceding twelve months.³ Several FAPR members were not allowed to participate in the November

17 ² The members of FAPR requested the assembly under such short notice because they
18 believed that flagrant violations of FAPR rules were being committed. One such violation included
19 President Anases’ intention to vote for Kirsan Ilyumzhinov for President of the FIDE, even though
20 an assembly of FAPR members, properly constituted on July 3, 2010, had mandated that FAPR vote
21 for Anatoly Karpov. The members believed that President Anases departure from this mandate was
imminent and they wanted to have time to file an injunction if necessary.

22 ³ Plaintiffs contend that this restrictive definition did not apply to FAPR’s membership
23 requirements and was an incorrect interpretation of Article III of the FAPR Constitution which reads
24 “The FAPR shall be integrated by individuals known as partners or members, who should stay active
25 by attending assemblies, participating in the activities and paying the assigned quotas.” (See Docket
26 No. 97-2 at 1.) Instead, Plaintiffs believe that President Anases based his interpretation off of a
27 FIDE rule which states “[a] player is considered to commence inactivity if he plays no rated games
in a one year period. .” FIDE Handbook, Rule 7.23a (See Docket No. 79-41 at 2). Plaintiffs contend
that this rule does not apply to organizations like FAPR and is only applicable to the FIDE rating
system.

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1 20, 2010 assembly because they did not meet this definition of “active”. On November 16, 2010,
2 Berrios sent an email to the group ajedrezpr@yahoo.com, which contained a message from President
3 Anases. The message provided questions and answers related to the proposed amendments to be
4 voted on at the November 20, 2010 assembly.⁴

5 The assembly took place on November 20, 2010. During the meeting several amendments
6 to the FAPR Constitution were approved and the constitution was amended accordingly. Acting
7 under the resolutions adopted at the assembly, Berrios sent another email to the group email address
8 ajedrezpr@yahoo.com. The email informed the recipients that they had until December 31, 2010
9 to submit their candidacies to be Regional Delegates of the FAPR. During the spring of 2011,
10 elections were held by the FAPR and a new Board of Directors, including a new President and Vice
11 President, was elected by FAPR delegates pursuant to the amended FAPR Constitution.

12 On December 13, 2010, Plaintiffs filed the instant action in the Puerto Rico Court of First
13 Instance seeking a preliminary injunction against the actions of the FAPR. Plaintiffs’ original
14 complaint contained, *inter alia*, multiple violations of rights guaranteed under the United States
15 Constitution as well as the Constitution of the Commonwealth of Puerto Rico. On December 29,
16 2010, the case was removed to federal court pursuant to the court’s original jurisdiction under these
17 claims (Docket No. 1). The court also granted jurisdiction over the pendent state claims contained
18 in the complaint. On January 10, 2011, the court denied Plaintiff’s motion to remand for lack of

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20 ⁴ The purpose of this meeting was:

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22 to amend the Constitution of the [FAPR] in order to restructure the FAPR’s
23 organization, administratively and fiscally. For the Board of Directors to consist of
24 15 delegates of the five regions of the Federation (as a ratio of three delegates per
25 Region), and create the Fiscal Autonomy of each Region based on the equal
distribution of the Federation’s resources . . . to amend Articles IV, V, VI, VII, VIII,
X, and XI of the Constitution.

26 (See Docket No. 97-6.)

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1 federal jurisdiction, holding that Plaintiffs had pleaded a claim under the U.S. Constitution (Docket
2 No. 10).

3 On February 25, 2011, FAPR moved to consolidate this case with case 11-1208, which was
4 before Judge Garcia-Gregory and contained similar allegations (Docket No. 29). On February 28,
5 2011 the cases were consolidated (Docket No. 30). On March 7, 2011, Plaintiffs moved to remand
6 the consolidated cases, arguing that case 11-1208 did not contain similar allegations of constitutional
7 violations, and thus was not properly before this court. The court denied the motion to remand
8 (Docket No. 40). On March 22, 2011, Plaintiffs moved to voluntarily dismiss the federal claims
9 contained in the complaint (Docket No. 45). The court denied Plaintiffs' motion to voluntarily
10 dismiss their federal claims (Docket No. 47).

11 FAPR filed a motion for summary judgment (Docket No. 58) on June 24, 2011, seeking
12 dismissal of Plaintiffs' request for preliminary injunctive relief. Plaintiffs filed a response in
13 opposition (Docket No. 79), which contained a clarification on the current procedural status of their
14 case. Plaintiffs claimed that they were no longer seeking a preliminary injunction and, thus, treated
15 FAPR's motion for summary judgment as though it pertained to the merits of their claim for a
16 permanent injunction. (See Docket No. 79 at 2.) In light of Plaintiffs' clarification, the court
17 considered FAPR's motion as it applied to Plaintiffs' request for a permanent injunction.

III. Discussion**A. Plaintiffs' Constitutional Claims**

20 Among their allegations, Plaintiffs aver that FAPR's actions violated their First Amendment
21 rights as applied through the Fourteenth Amendment of the United States Constitution as well as
22 identical provisions of the Puerto Rico Constitution. U.S. Const. Amend. I; U.S. Const. Amend.
23 XIV; P.R. Const. Art. II §§ II, IV. Specifically, Plaintiffs allege various violations of their right to
24 freedom of expression and association. FAPR moves for dismissal of these claims, contesting that
25 Plaintiffs have failed to demonstrate how FAPR's alleged actions constitute requisite state-action
26 under the Fourteenth Amendment.

27 In general, the application of the rights guaranteed by the Fourteenth Amendment does not
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1 offer protection against private conduct, whether of an individual, a corporation, or an association
2 or organization. See Perkins v. Londonberry Basketball Club, 196 F.3d 13, 18 (1st Cir. 1999).
3 Instead, state action is required to impose constitutional obligations on private actors. See Yeo v.
4 Town of Lexington, 131 F.3d 241, 248-49 (1st Cir. 1997) (state action is necessary component of
5 First Amendment claim). However, a private entity may be subject to constitutional obligations
6 under the Fourteenth Amendment if it satisfies one of three tests: (1) the private entity assumes a
7 traditional public function in undertaking the challenged conduct; (2) an elaborate financial or
8 regulatory nexus ties the challenged conduct to the State; or (3) a symbiotic relationship exists
9 between the private entity and the State.” Perkins, 196 F.3d 13 at 18 (citations omitted).

10 To meet the public function test a private party must be performing “a public function that
11 has been ‘traditionally the exclusive prerogative of the State.’” Estades-Negrón v. CPC Hospital,
12 412 F.3d 1, 5 (1st Cir. 2005) (quoting Blum v. Yaretsky, 457 U.S. 991, 1004 (1982)). The nexus
13 test examines “whether the government exercised coercive power or provided such significant
14 encouragement that the complained-of misconduct . . . must be deemed to be the conduct of the
15 government.” Barrios-Velazquez v. Asociacion de Empleados del Estado Libre Asociado de Puerto
16 Rico, 84 F.3d 487, 493 (1st Cir. 1996). Under the symbiotic relationship test, a private party is fairly
17 characterized as a state actor if the government “has so far insinuated itself into a position of
18 interdependence with the private entity that it must be recognized as a joint participant in the
19 challenged activity.” Rodriguez-Garcia v. Davila, 904 F.2d 90, 98 (1st Cir. 1990) (quoting Burton
20 v. Wilmington Parking Authority, 365 U.S. 715, 725 (1961) (alterations omitted). Satisfaction of
21 any of these three tests may subject a private entity’s actions to constitutional limitations. See
22 Alberto San, Inc. v. Consejo De Titulares Del Condominio San Alberto, 522 F.3d 1, 4 (1st Cir.
23 2008).

24 In their opposition, Plaintiffs agree that federal precedent bars a finding in this case of
25 sufficient action by the state to satisfy the state-action requirement. However, they do believe that
26 the circumstances of this case satisfy the requirements for state-action under the laws of Puerto Rico.
27 (See Docket No. 79 at ¶13.) Plaintiffs argue that each of the above-mentioned tests are satisfied

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1 when viewed in light of the Puerto Rico Supreme Court rulings in Pena v. Federacion de Esgrima
2 de PR, 108 D.P.R. 47 (1978), Arroyo v. Rattan Specialties, 117 D.P.R. 35 (1986), and Hernandez
3 Cibes v. Hospital de Maestro, 116 D.P.R. 72 (1977).

4 In Pena, the Puerto Rico Supreme Court dealt with questions of civil procedure, however,
5 did not discuss in what circumstances the rights protected by the Puerto Rico Constitution were
6 enforceable against private parties. 108 D.P.R. 47. Similarly, Arroyo does not stand for the
7 proposition asserted by Plaintiffs. In Arroyo, the court considered whether, in light of the Puerto
8 Rico's constitutional right of privacy, a private employer may use a lie detector test to determine
9 eligibility for employment. 117 D.P.R. 35 In its decision, the Puerto Rico Supreme Court
10 recognized that it had "repeatedly held that the character and primacy of the right of privacy . . . may
11 be enforced even between private individuals." Id. Therefore, the Court's holding is not applicable
12 to the constitutional violations alleged in this case. See also Vega v. Telefonica, 156 D.P.R. 584
13 (2002) (distinguishing between constitutional rights only enforceable against the state and the
14 constitutional right of privacy which is enforceable against individuals).

15 In Hernandez Cibes, the Puerto Rico Supreme Court considered a private hospital's decision
16 to suspend a doctor. 116 D.P.R. 72 . The Court overturned the immediate suspension, holding that
17 the hospital had not complied with its by-laws in deciding to summarily suspend the doctor. Id.
18 However, in Gonzalez-Aristud v. Hosp. Pavia, 168 D.P.R. 127, 135 (2006), the Supreme Court of
19 Puerto Rico clarified its ruling in Hernandez Cibes, stating that its decision to nullify the doctor's
20 suspension was premised upon the existence of a contractual employment relationship and not
21 constitutional due process guarantees. Thus, said precedent does not support Plaintiffs contention
22 that the court has considered certain constitutional claims in the absence of considerable state
23 involvement.

24 After considering the cited cases, the court finds that Plaintiffs have failed to identify any
25 legal support for their contention that the Puerto Rico state-action doctrine departs from federal
26 precedent when certain violations of the Constitution of Puerto Rico are alleged. On the contrary,
27 Puerto Rico Supreme Court decisions cite various federal precedent when explaining how the state-

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1 action doctrine operates under Puerto Rico law. See Gonzalez-Aristud, 168 D.P.R. at 135 (citing
2 U.S. Supreme Court and First Circuit precedent requiring state action to allege certain constitutional
3 violations). Accordingly, the court will apply the state-action doctrine tests in light of federal
4 precedent.

5 Assuming that all of the contacts and connections listed by Plaintiffs are true, the
6 Commonwealth of Puerto Rico and FAPR are connected in the following ways: (a) Puerto Rico's
7 government contributes 90% of the FAPR's yearly budget, which consists of a \$200,000 annual
8 grant as well as other funds associated with the holding of chess tournaments; (b) the government
9 provides the site for the FAPR main office in Bayamon; (c) the FAPR is in charge of the
10 Commonwealth's PAE program (from its Spanish name "Programa de Ajedrez en las Escuales"),
11 which provides grants to teach public school teachers how to teach their students to play chess; and
12 (e) when FAPR holds chess tournaments, the Puerto Rico Department of Education provides the
13 tournament locations and food. Plaintiffs contend that these actions by the Commonwealth are
14 sufficient to hold FAPR's actions attributable to the government, as they satisfy each of the three
15 tests applied in the indirect state-action inquiry.

1. Public Function Test

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17 With regard to the public function test, Plaintiffs contend that the FAPR's positive impact
18 on the quality of public education of students in Puerto Rico demonstrates a governmental function
19 of great public import, sufficient to hold the government liable for FAPR's actions. The court
20 disagrees with this conclusion. The fact "that a private entity performs a function which serves the
21 public does not make its acts state action." Rendell-Baker v. Kohn, 457 U.S. 830, 842 (1982). The
22 Supreme Court has found action to be governmental "when the challenged entity performs functions
23 that have been 'traditionally the *exclusive prerogative*' of the [state]." San Francisco Arts &
24 Athletics, Inc. v. U.S. Olympic Comm., 483 U.S. 522, 544 (1987) (quoting Rendell-Baker, 457 U.S.
25 at 842 (emphasis added by Rendell-Baker Court). The court finds FAPR's actions, although serving
26 the public, are not traditionally the "exclusive prerogative of the state." See e.g. Ponce v. Basketball
27 Feder. of Com. of Puerto Rico, 760 F.2d 375, 379 (1st Cir. 1985) (differentiating between the field

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1 of amateur sports and public housing and finding that latter to be a “matter uniquely within [the
2 state’s] domain to regulate.”); see also Perkins, 196 F.3d at 19 (citing Rendell-Baker, 457 U.S. at
3 842) (finding that if education does not satisfy the public function test, the coordination of a youth
4 basketball league must also fail). The court finds FAPR’s activities akin to running a youth
5 basketball league, and therefore, in light of this precedent, cannot satisfy the public function test.

2. Nexus Test

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7 Plaintiffs further contend that the government’s financial contributions, which make up the
8 majority of FAPR’s budget, constitute sufficient connections to satisfy the nexus test. The nexus
9 test examines “whether the government exercised coercive power or provided such significant
10 encouragement that the complained-of misconduct . . . must be deemed to be the conduct of the
11 government.” Barrios-Velazquez, 84 F.3d at 493. The First Circuit has followed the Supreme Court
12 in describing this as a targeted inquiry that focuses on the connection between the state and the
13 challenged conduct, not the broader relationship between the state and the private entity. See
14 Perkins, 196 F.3d at 19-20. Therefore, regardless of Puerto Rico’s financial support of the FAPR,
15 Plaintiff has failed to allege how the state has encouraged FAPR’s alleged constitutional violations.
16 Accordingly, Plaintiffs are unable to satisfy the nexus test. See Rendell-Baker, 457 U.S. at 840
17 (school’s receipt of public funds constituting 90% of its budget did not transform private decisions
18 into acts of the state); see also Perkins, 196 F.3d at 20 (citing Jackson, 419 U.S. at 351-52 (“courts
19 will not find state action on a nexus theory absent a snug relationship between the [state
20 encouragement] and the challenged conduct itself.”)); Rodriguez-Garcia, 904 F.2d at 97 (“the
21 challenged action . . . may be fairly treated as that of the State itself . . . only when it can be said that
22 the State is responsible for the specific conduct of which the plaintiff complains.”)

3. Symbiotic Relationship Test

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24 The symbiotic relationship test evaluates whether the government has become so intertwined
25 with the private entity that it must be recognized as a joint participant in the challenged activity.
26 Perkins, 196 F.3d at 21. In contrast to the nexus inquiry, the symbiotic relationship test focuses on
27 the nature of the overall relationship between the state and the private entity and not just the state’s

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1 roll in the challenged action. Id. When conducting this inquiry, presiding case law has focused on
2 the extent to which the private entity is (or is not) independent in the conduct of its day-to-day
3 affairs; and whether the state benefits from a financial partnership with the private entity. Id. (citing
4 Evans v. Newton, 382 U.S. 296, 301 (1966); Barrios-Velazquez, 84 F.3d at 494-95); Rodriguez-
5 Garcia, 904 F.2d at 98 (citing Rendell-Baker, 457 U.S. at 843). After reviewing the factual
6 allegations, the court finds there is no symbiotic relationship present between these parties.
7 Plaintiffs have failed to highlight any governmental influence that hinders FAPR's independence
8 in conducting its daily affairs. Furthermore, it does not appear that the Commonwealth benefits from
9 any financial partnership with FAPR. Without these essential elements, the Plaintiffs are unable to
10 demonstrate a symbiotic relationship. See Barrios-Velasquez, 84 F.3d at 494-95 (finding no
11 symbiotic relationship when private entity was independent in its daily affairs and state did not profit
12 from entity's acts); see also Rodriguez-Garcia, 904 F.2d at 99 (same).

13 As Plaintiffs are unable to satisfy the requirements of any of the indirect state-action tests,
14 they have failed to demonstrate how FAPR's challenged actions are attributable to the state.
15 Accordingly, Plaintiffs claims under the U.S. and Puerto Rico Constitutions, premised upon state
16 action, are hereby **DISMISSED**.

B. Plaintiffs' *Ultra Vires* Claims

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18 Plaintiffs also claim that each of the actions taken by the FAPR Board of Directors at the
19 extraordinary assembly held on November 20, 2010, were taken in violation of the FAPR's
20 Constitution and therefore must be held null and void.

21 It is not generally the function of the courts to control the internal affairs of voluntary
22 associations. "[T]heir conduct is subject to judicial review only when they fail to exercise power
23 consistently with their own internal rules or when their conduct violates fundamental right of a
24 member to fair hearing." Finn v. Beverly Country Club, 683 N.E.2d 1191, 1193 (Ill. App. Ct.

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1997).⁵

2 Plaintiffs contend that the FAPR violated its constitution in the following ways: (1) the
3 notice of the November 20 extraordinary assembly did not include details of each specific
4 amendment to the Constitution; (2) the notice of the meeting was sent illegally by email, without
5 consent from its members; (3) considering the importance and significance of the matters considered
6 at the assembly, the ten day notice was unreasonable as it did not give members a proper opportunity
7 to prepare themselves; (4) days before the holding of the November 20 assembly, many members
8 were prevented from renewing their memberships “until further notice”, thus preventing them from
9 attending the assembly; (5) new members were not allowed to participate in the elections, even
10 though the constitution permitted them to do so if they joined by November 30 of the pre-electoral
11 year; (6) many members were not allowed to attend the November 20 assembly because they did not
12 meet President Aneses definition of an “active” member; (7) the adoption of amendments to the
13 election process at the assembly was unreasonable as the process of submitting candidates for the
14 board had already begun; (8) it was illegal to change the voting structure as well as the method of
15 administration of public funds at the November 20 assembly; (9) holding the November 20 assembly
16 in Aguadilla was an inappropriate manipulation of the proceedings making it difficult for Plaintiffs
17 to participate; (10) the location of the meeting was changed without notice.

18 After reviewing the submitted documents provided by the parties as well as the Constitution
19 and by-laws of the FAPR, the court finds that none of the actions taken by the FAPR were done in
20 an arbitrary or capricious manner. Although various members of the FAPR may have been
21 inconvenienced by the rules imposed, or ultimately disagreed with the Board’s decisions, these
22 complaints do not constitute grounds for the court to intervene in the dealings of a private voluntary
23 association. While reasonable minds could disagree with the methods applied and rules imposed

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25 ⁵ In its motion to dismiss, FAPR relies upon Ohio and Illinois case law to establish the
26 standard against which Plaintiffs claims should be considered. (See Docket No. 58 at 21-22.) In
27 responding to said motion, Plaintiffs cited the same case law. (See Docket No. 79 at 9-10.) Thus,
the court applied this standard in considering Plaintiffs’ claims.

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1 by President Aneses and the FAPR Board of Directors, each represents a reasonable interpretation
2 of the FAPR's Constitution. Thus, the FAPR's actions are not arbitrary and capricious, and
3 therefore, do not demand judicial intervention. Accordingly, the court **GRANTS** FAPR's motion
4 for summary judgment and **DISMISSES** Plaintiffs' claims.

5 **IV. Conclusion**

6 For the reasons set forth above, the court **GRANTS** FAPR's motion for summary judgment
7 (Docket No. 58). All claims before this court are hereby **DISMISSED**.

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9 **SO ORDERED.**

10 In San Juan, Puerto Rico this 10th day of November, 2011.

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12 *s/ Gustavo A. Gelpi*

13 GUSTAVO A. GELPI
14 United States District Judge
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